

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER,)	8:08CV467
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
TOM OSBORNE, et al.,)	
)	
Defendants.)	

This matter is before the court on Plaintiff's Notice of Appeal, in which Plaintiff also seeks to appeal in forma pauperis.¹ (Filing No. [16](#).) The court dismissed Plaintiff's claims and entered judgment in this matter on February 24, 2009. (Filing Nos. [9](#) and [10](#).) Thereafter, Plaintiff filed a Motion for Reconsideration, which the court denied on March 27, 2009. (Filing No. [15](#).) On May 1, 2009, Plaintiff filed his Notice of Appeal. (Filing No. [16](#).)) Plaintiff is not a prisoner and has previously been granted leave to proceed IFP in this matter. (Filing No. [5](#).)

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed– certifies that the appeal is not taken in good faith or finds that the party

¹Plaintiff also seeks to appeal “out of time if necessary.” (Filing No. [16](#) at CM/ECF p. 1.) The court finds that Plaintiff's claims are against an agency of the United States and that the appeal was filed within 60 days of the denial of the Motion for Reconsideration and is therefore timely filed. [Fed. R. App. P. 4\(a\)\(1\)\(B\)](#).

is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

Id. Because Plaintiff proceeded IFP in the district court, he may now “proceed on appeal in forma pauperis without further authorization.”

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Appeal In Forma Pauperis (filing no. 16) is granted.

2. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

July 21, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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